I negate and value morality as ought implies a moral obligation.

The state as an entity acts within the confine of social coercion, it removes rights and imprisons individuals, sometimes even kills them. Thus the state by taking action claims the authority ot influence and impinge the rights of others.

Governments are not rationalistic entities in the conventional sense, and thus do not have some moral obligation that arises from an autonomous nature but are instead a tool created by individuals John Locke explains the process and the process and the resultant obligations.

**IF man in the state of Nature be** so free as has been said, if he be **absolute lord** **of** **his own person** and possessions, equal to the greatest **and subject to nobody**, **why** will he **part with** his **freedom**, this empire, and subject himself to the dominion and control of any other power? **To which it is obvious to answer, that though in the state of Nature he hath such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasion of others; for all being kings as much as he**, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure. **This makes him willing to quit this condition which, however free, is full of fears and continual dangers; and it is not without reason that he seeks out and is willing to join in society with others who are already** **united, or have a mind to unite for the mutual preservation of their lives**, liberties and estates, which I call by the general name - property. **§ 124.** **The great and chief end, therefore, of men uniting into commonwealths, and putting themselves under government, is the preservation of their property**; to which in the state of Nature there are many things wanting. Firstly, **there wants an established, settled, known law, received and allowed by common consent to be the standard of right and wrong, and the common measure to decide all controversies between them.** For though the law of Nature be plain and intelligible to all rational creatures, yet men, being biased by their interest, as well as ignorant for want of study of it, are not apt to allow of it as a law binding to them in the application of it to their particular cases. § 125. Secondly, in the state of Nature there wants a known and indifferent judge, with authority to determine all differences according to the established law. For every one in that state being both judge and executioner of the law of Nature, men being partial to themselves, passion and revenge is very apt to carry them too far, and with too much heat in their own cases, as well as negligence and unconcernedness, make them too remiss in other men's. § 126. Thirdly, in the state of Nature there often wants power to back and support the sentence when right, and to give it due execution. They who by any injustice offended will seldom fail where they are able by force to make good their injustice. Such resistance many times makes the punishment dangerous, and frequently destructive to those who attempt it. **§ 127.** Thus mankind, notwithstanding all the privileges of the state of Nature, being but in an ill condition while they remain in it are quickly driven into society. Hence it comes to pass, that we seldom find any number of men live any time together in this state. The inconveniencies that they are therein exposed to by the irregular and uncertain exercise of the power every man has of punishing the transgressions of others, make them take sanctuary under the established laws of government, and therein seek the preservation of their property. It is this that makes them so willingly give up every one his single power of punishing to be exercised by such alone as shall be appointed to it amongst them, and by such rules as the community, or those authorised by them to that purpose, shall agree on. And in this we have the original right and rise of both the legislative and executive power as well as of the governments and societies themselves. **§ 128.** **For in the state of Nature to omit the liberty he has of innocent delights, a man has** two **powers**. The first is **to do whatsoever he thinks fit for the preservation of himself** and others within the permission of the law of Nature; by which law, common to them all, he and all the rest of mankind are one community, make up one society distinct from all other creatures, and were it not for the corruption and viciousness of degenerate men, there would be no need of any other, no necessity that men should separate from this great and natural community, and associate into lesser combinations. The other power a man has in the state of Nature is the power to punish the crimes committed against that law. Both these he gives up when he joins in a private, if I may so call it, or particular political society, and incorporates into any commonwealth separate from the rest of mankind. § 129. **The first power - viz., of doing whatsoever he thought fit for the preservation of himself and the rest of mankind, he gives up to be regulated by laws made by the society, so far forth as the preservation of himself and the rest of that society shall require; which laws of the society in many things confine the liberty he had by the law of Nature.** § 130. Secondly, the power of punishing he wholly gives up, and engages his natural force, which he might before employ in the execution of the law of Nature, by his own single authority, as he thought fit, to assist the executive power of the society as the law thereof shall require**.** For being now in a new state, wherein he is to enjoy many conveniencies from the labour, assistance, and society of others in the same community, as well as protection from its whole strength, he is to part also with as much of his natural liberty, in providing for himself, as the good, prosperity, and safety of the society shall require, which is not only necessary but just, since the other members of the society do the like. **§ 131.** But though men when they enter into society give up the equality, liberty, and executive power they had in the state of Nature into the hands of the society, to be so far disposed of by the legislative as the good of the society shall require, **yet it being only with an intention in every one the better to preserve himself, his liberty and property (for no rational creature can be supposed to change his condition with an intention to be worse**), **the power of the society or legislative constituted by them can never be supposed to extend farther than the common good,** **but is obliged to secure every one's property by providing against those three defects above mentioned that made the state of Nature so unsafe and uneasy. And so, whoever has the legislative or supreme power of any commonwealth, is bound to** govern by established standing laws, promulgated and known to the people, and not by extemporary decrees, by indifferent and upright judges, who are to decide controversies by those laws; and to employ the force of the community at home only in the execution of such laws, or abroad to prevent or redress foreign injuries and secure the community from inroads and invasion. And all this to be directed to **no other end but the peace, safety, and public good of the people.**

Thus the state garners its authority to punish so that it might be able to punish crimes for the purpose of preventing crime and thus keeping the peace and safety of the community. Thus the standard is minizing violent crime.

My sole contention is that negating helps to eliminate violent crime. Enrico Pagnanelli[[1]](#footnote-1) explains

**Transfer has a significant negative effect on a juvenile's development** and may, therefore, be a direct cause of increased recidivism among transferred violent juvenile offenders relative to their counterparts in the juvenile system. Instead of rehabilitating, **the criminal system may encourage recidivism. n68 Juveniles who are incarcerated are more likely to "learn social rules and norms that legitimate[] domination, exploitation, and retaliation" from the surrounding adult criminals. n69 The criminal system also may cause juveniles to feel exploited and humiliated by the judicial process, and stigmatized by society. n70 A criminal conviction may also encourage recidivism by severely obstructing the convicted juvenile's future educational, employment, and social opportunities. n71 A juvenile who has been tried in a criminal court often feels unjustly treated, and juveniles with this negative perception of the adjudication process are more likely to adopt a "delinquent self-concept" which also causes them to re-offen**d. n72 Extensive interviews with juvenile offenders in the adult criminal system reveal that they view the system as "duplicitous and manipulative, malevolent in intent, and indifferent to their needs." n73 These reactions are wholly "inconsistent with compliance to legal norms," n74 and highlight a very potent negative effect on incarcerated juveniles which logically contributes to increased rates of recidivism post-transfer. n75 [\*185] **Transfer may have a very minimal deterrent effect on juveniles because their premature psychological development may prevent them from feeling culpability. n76 Most juveniles do not perceive risks or appreciate the consequences of their actions the way adults do.** n77 While research is mixed on whether juveniles contain the necessary level of blameworthiness for culpability, the idea that juveniles may lack culpability because of psychological development is helpful in assessing whether transfer is appropriate. n78 This evidence argues against any mandatory sentencing policy that fails at least to consider mitigating factors such as age, crime, and the capacity of blameworthiness for a juvenile offender. **The juvenile court system has many positive characteristics that help rehabilitate young offenders and reduce recidivism. n79 Many young offenders who engage in chronic delinquency often fail to develop the relationships and attachments crucial to the process of socialization**. n80 **Juveniles in the juvenile system are able to develop positive relationships with individuals involved in their care, such as judges, practitioners, and case workers. n81 These relationships, in conjunction with the nurturing of the juvenile system's rehabilitation process stimulate the development of trust, core values, and character in juveniles and aid their effective reintegration into society.** n82 One could argue that because a child has the legal right to many "adult decisions," treating juveniles as adults makes sense. n83 However, this argument is a fatal misconstruction. That juveniles now enjoy some of the legal rights enjoyed by adults has no bearing on a juvenile's capacity to stand trial. The utilitarian goals of our justice system should not be ignored. The experience of childhood is necessary to socialize juveniles. It is essential that a justice system recognize this and cater to the many social and psychological deficits in the lives of juvenile [\*186] offenders. **Because of the negative effects of transfer, including increased post-transfer recidivism, and the juvenile system's focus on nurturing and re-socialization, the juvenile court system is the most appropriate forum for juvenile offenders--even violent offenders--and, ultimately, the most effective means of protecting the public.**

This is empirically verified Bishop et al[[2]](#footnote-2) writes.

Rearrests. **Of the transferred youths, 30% were rearrested during the follow-up period, compared to 19% of the nontransfer matches** (Z=9.54, p <.001). **These finding at the aggregate level confirm what was observed in the matched-pairs analyses; that is, youths in the transfer group were significantly more likely to reoffend during the follow-up period than were their nontransfer matches.** These unadjusted proportions do not take account of differences in time at risk across the two groups. For the transfer group as a whole, the mean number of days of incapacitation was 38, compared to 33 days for the nontransfer group. For those who were incarcerated in the transfer group, the mean number of days of incarceration was 245, compared to 90 days for the nontranser group. Adjusted arrest raters were calculated by computing numbers of reaarrests within each group divided by days at risk, then multiplying by 365.25 to produce yearly rates of offending. For the total transfer group (n= 2,738), the rearrest rate was .54 offenses per person year of exposure, compared ot a rate of .32 for the total nontransfer group (Z= 13.60, p< .001). Looking only at those who reoffended during the follow-up period (808 transfers, 528 nontransfers), the adjusted rate of rearrest in the transfer group was 1.90 offenses per person year of exposure, compared to a rate of 1.70 for the nontransfer group (Z= 3.09, p =.002). Time to failure. **The next question we addressed was whether mean time to failure differed across groups. For those 808 subjects who reoffended in the transfer group, mean time to failure adjusted for time at risk was 135 days**; that is, the average elapsed time on the street prior to committing a new offense for those who reoffended in the transfer group was 135 days. **For the non transfer group, the average time to failure was 227 days. The difference across groups was significant** (Z = 10.57, p< .001). **Thus not only were transfers more likely to reoffend but they were likely to reoffend more quickly than their nontransfer matches**. Had we been able to calculate jail time served for transfers, their time to failure would undoubtedly have been shorter, and the differences between groups ever greater. Severity of rearrest. **Still another way of exploring similarities and difference in recidivism across the two groups was to examine the severity of rearrest offenses.** For this portion of our analyses, we restricted our attention to the first rearrest for each individual who reoffended in the two groups and calculated the proportions who committed felonies versus misdemeanors. **Of the transfers who were rearrested, 93% were arrested for felony offenses. For persons rearrested in the non transfer group, 85% were arrested for felony offenses.** Although the differences across groups in proportions arrested for felonies was small, it was statistically significant (Z= 4.075, p < .001).

1. “NOTE: CHILDREN AS ADULTS: THE TRANSFER OF JUVENILES TO ADULT COURTS AND THE POTENTIAL IMPACT OF ROPER V. SIMMONS” 2007 American Criminal Law Review American Criminal Law Review Winter, 2007 [↑](#footnote-ref-1)
2. Donna M. Bishop, Charles E. Frazier, Lonn Lanza-Kaduce and Lawrence Winner. “The Transfer of Juveniles to Criminal Court: Does it make a Difference”. Crime and Delinquency. 1996. Sage Publications. [↑](#footnote-ref-2)